

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SERIOUS USA, SERIOUS IP, INC., and
DXPDD, LLC, :
Plaintiffs, :
: **USDC SDNY
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v. :
: Civil Action No. 08-cv-4808 (SHS) (AJP)

CD DIGITAL CARD; CD WORKS; DISC
MAKERS; IMX SOLUTIONS, INC.;
INFINITE MARKETING INC.; INGRAM
MICRO INC.; L&M OPTICAL DISC, LLC;
MICROVISION DEVELOPMENT, INC.;
ONEDISC.COM, INC.; and SONARUS
CORPORATION, :
: **Defendants.**

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SERIOUS USA, INC.; SERIOUS IP, INC.;
and DXPDD, LLC, :
Plaintiffs, :
v. : Civil Action No. 08-cv-4807(GBD) (THK)
INTERACTIVE CARD SOLUTIONS LLC; :
and INTERACTIVE CARD
TECHNOLOGIES LLC, :
Defendants. :
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SCHEDULING ORDER

Further to the Initial Pre-Trial Conference before the Court on June 20, 2008, the Court
hereby enters the following Scheduling Order:

1. Case Management Plan.

A. Rule 26(a)(1) Disclosures

i. The Parties do not seek to modify the disclosures required by Fed. R. Civ. P. 26(a)(1) and have agreed to exchange Initial Disclosures on **July 18, 2008.**

B. Parties that have been served with process and were not present and/or represented by counsel at the Scheduling Conference held on June 20, 2008 before the Court have until July 16, 2008 to properly appear. Plaintiffs have until **July 23, 2008** to file a Motion for Default Judgment against any party that has been served with process and has not properly appeared in this case with counsel by **July 16, 2008**. In the event that Plaintiffs fail to file a Motion for Default Judgment, the Court may dismiss the case without prejudice against those specific parties.

C. Discovery

i. At this time, the parties do not believe any change to the Federal Rules of Civil Procedure or the Court's Local Rules is required with respect to deposition numbers or procedure and will follow the Federal Rules of Civil Procedure and the Court's Local Rules accordingly. In the event that any party believes in good faith that additional depositions or alternate procedures are required, that party may apply to the Court for appropriate modifications, which modifications shall be permitted upon a showing of good cause.

- ii. Opinions of counsel upon which any Defendant may rely will be produced by **October 13, 2008**.
- iii. The parties intend to call expert witnesses at trial. Parties bearing the burden of proof on a claim or defense shall designate experts required to be disclosed by Fed. R. Civ. P. 26(a)(2)(A) and produce expert reports on **November 12, 2008**. Parties not bearing the burden of proof on a claim or defense shall designate experts required to be disclosed by Fed. R. Civ. P. 26(a)(2)(A) and produce expert reports on **December 12, 2008**.
- iv. Fact and Expert discovery will be completed on **January 9, 2009**.

D. Claim Construction

- i. The parties shall identify and exchange a list setting forth the terms in the patents-in-suit they contend require interpretation, and the proposed meaning of the terms, on **September 2, 2008**. The parties shall attempt to meet and confer from **September 2, 2008 to September 8, 2008**. The parties shall exchange final and responsive claim constructions on **September 11, 2008**. The parties shall file and serve simultaneous briefs in support of their position concerning the interpretation of the claims at issue in this case and a joint claim construction chart on **September 18, 2008**. Rebuttal briefs, if any, are to be filed and served on **September 30, 2008**.
- ii. A *Markman* Hearing will be held on date to be determined by the Court.

E. Summary Judgment Motions

i. The parties may also file one or more motions for summary judgment that could reduce the number of issues to be decided at trial. All summary judgment motions may be filed up to and including **January 22, 2009**. Oppositions will be filed **2 weeks from service of moving papers for summary judgment**. Reply briefs will be filed **1 week from service of briefs in opposition to summary judgment**.

2. Trial.

A. The Pretrial Order will be submitted to the Court **30 days following the Court's decision on summary judgment motions**.

B. Other deadlines pertaining to trial will be determined following the Court's ruling on summary judgment motions.

3. Settlement.

Certain parties have conferred regarding settlement options and are still in negotiations to resolve the matter. While a global settlement has not been reached, the parties believe that settlement may be possible at a later point.

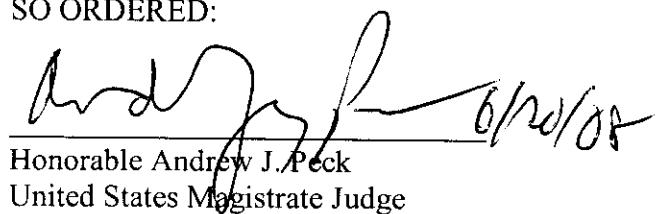
4. Other Matters.

The parties will prepare a stipulated protective order and will present it to the Court for consideration.

5. Trial by the Magistrate Judge.

The parties will confer and determine whether they will consent to trial by the Magistrate Judge.

SO ORDERED:


Honorable Andrew J. Peck
United States Magistrate Judge

HON. ANDREW J. PECK
United States Magistrate Judge
Southern District of New York

364233

*cc: Fox, M. Ward
J. S. Stein
D. H. Katz
J. P. Donnelly*

BY FAX

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

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Judge George B. Daniels**